

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Thirteenth Judicial District Court, County of Yellowstone

STATE OF MONTANA,	)	
	)	
Plaintiff,	)	CAUSE NO. DC-15-777
	)	
-vs-	)	
	)	DECISION
TYRONE DEAN JACOBSEN,	)	
	)	
Defendant.	)	

On October 6, 2016, the Defendant was sentenced in District Court as follows:  
Count I: Sexual Intercourse Without Consent, a felony, in violation of §45-5-503, MCA, a commitment to the Montana State Prison for forty (40) years with fifteen (15) suspended;  
Count II: Sexual Assault, a felony, in violation of §45-5-502, MCA, a commitment to the Montana State Prison for forty (40) years with fifteen (15) suspended, to run concurrently with Count I;  
Count III: Sexual Assault, a felony, in violation of §45-5-502, MCA, a commitment to the Montana State Prison for forty (40) years with fifteen (15) suspended, to run concurrently with Count I & II;  
Count IV: Attempted Sexual Intercourse Without Consent, a felony, in violation of §§45-5-502, 45-4-103, MCA, a commitment to the Montana State Prison for forty (40) years with fifteen (15) suspended, to run concurrently with Count I, II and III.

The Defendant was designated a Level 2 Sexual Offender and ordered to complete Phases I and II of Sex Offender Treatment Program at the Montana State Prison before being eligible for parole. The Defendant was granted credit for time served from August 12, 2015 through October 6, 2016.

On May 5, 2017, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant was present and was represented by Brent Getty of the Office of the State Public Defender. The State was represented by Mary Leffers Barry of the Yellowstone County Attorney's Office.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

Having considered the arguments advanced by both parties, and having considered the underlying record in the case, the Division unanimously finds that the sentences imposed on the Defendant are clearly inadequate. In this case, the undisputed record shows that the Defendant engaged in multiple sexual offenses, multiple offenses against person, rather than property, over an extended period of time. The record shows the Division that the Defendant is an indiscriminate predator. He represents a substantial risk to re-offend and a substantial risk to community safety if he is not incarcerated for a sufficient period of time. The Division unanimously finds that the following new sentence is imposed:

**Count I: Sexual Intercourse Without Consent, a felony, in violation of §45-5-503, MCA, a commitment to the Montana State Prison for fifty (50) years with no time suspended;**

**Count II: Sexual Assault, a felony, in violation of §45-5-502, MCA, a commitment to the Montana State Prison for fifty (50) years, with no time suspended, to run concurrently with Count I;**

**Count III: Sexual Assault, a felony, in violation of §45-5-502, MCA, a commitment to the Montana State Prison for fifty (50) years with no time suspended, to run concurrently with Count I & II;**

**Count IV: Attempted Sexual Intercourse Without Consent, a felony, in violation of §§45-5-502, 45-4-103, MCA, a commitment to the Montana State Prison for fifty (50) years with no time suspended, to run concurrently with Count I, II and III.**

The designation of the Defendant as a Level 2 Sexual Offender, the finding that he was at least a moderate risk to reoffend, is affirmed. The parole restriction that the Defendant is not eligible for parole unless and until he completes Phases I and II of a MSOTA certified program is also appropriate and affirmed. The remaining terms and conditions as imposed in the Judgment given on October 6, 2016 are affirmed.

Done in open Court this 5th day of May, 2017.

DATED this 31 day of May, 2017.

SENTENCE REVIEW DIVISION

  
Hon. Brad Newman, Chairperson

  
Hon. Kathy Seeley, Member

  
Hon. Brenda Gilbert, Member

CERTIFICATE OF MAILING

I, Georgia Lovelady, Judicial Assistant of the Sentence Review Division of the Montana Supreme Court, hereby certify that copies of the foregoing DECISION were mailed this 2<sup>nd</sup> day of June, 2017, to the following:

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Yellowstone County  
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Hon. Michael Moses  
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Georgia Lovelady, Judicial Assistant  
SENTENCE REVIEW DIVISION